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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,553	01/04/2002	Mark Linus Bauman	ROC920010193US4	7117
7590 01/26/2006			EXAMINER	
Gero G. McClellan Moser, Patterson & Sheridan, L.L.P. Suite 1500 3040 Post Oak Boulevard Houston, TX 77056-6582			TRUONG, LECHI	
			ART UNIT	PAPER NUMBER
			2194	
DATE MAILED: 01/26/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/037,553

Applicant(s)

BAUMAN ET AL.

Examiner

LeChi Truong

Art Unit

2194

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 12/19/2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: none.  
Claim(s) objected to: none.  
Claim(s) rejected: 1,3-10,12-19 and 21-26.  
Claim(s) withdrawn from consideration: 2,11, 20.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
**WILLIAM THOMSON**  
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: 1.  
12/19/2005 has been considered but they are not persuasive:

Applicant amendment filed on

Applicant argued in substance that :

- (1) " Applications submit that the rejection of the present Application under 102(e) using its own parent is improper ".
- (2) " Nothing in this passage( or the APA generally) discloses a method of sockect-based communication that include issuing "a continuous mode operation to the socket" ".
- (3) " Firth fails to disclose techeniques for managing socket based communication".

2. Examiner respectfully disagreed with Applicant's remarks:

As to the point (1), In order to apply a reference under 35 U.S.C. 102(e), the inventive entity of the application must be different than that of the reference. Note that, where there are joint inventors, only one inventor \*>needs to< be different for the inventive entities to be different and a rejection under 35 U.S.C. 102(e) is applicable even if there are some inventors in common between the application and the reference( MPEP. 706.02(a)). The Joint inventor of this application and the reference is different. Therefore, the present Application under 102(e) is proper.

As to the point (2), APA teaches an intial series of operations 106 includes creating a socket( socket()), binding to a known address( bind( )) and listening for incomming connections on the socket( listen()). An accept operating 108 is then issued to accept a new client connection, which is then given to one of the worker thread 104( socket)( page 3, ln 21-27).

As to the point (3), Firth teaches The communication facilities required a socket connection, and underlying protocols ( TCP/IP) to establish communications with remoter server application( col 3, ln 40-47), Functions in the WININET.DLL in the SAP 68 use socket as a communication facility SAP 88 to communicate with the Internet layer 70( col 8, ln 37-41). The proxy application described above provides a first level of network securiy. Several additional layers of security are also available from the reentrant Internet API function calls. Since sockets are used as SAP between the Internet API functions call and the internet layer( col 20, ln 1-10). Since the SAP 68 use the sockets as a communication facility SAP 68 to communicate with the internet layer, the functionl calls must be passed to the socket. Firth also teaches the function calls used to communication can be used in a asynchrnuous mode of operation and a synchronous mode of operation( col 3, ln 58-67).